S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 7, 2014

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing a grading system for retail food stores, food service establishments and food warehouses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 28 of the agriculture and markets law is renumbered article 26-C, section 500 is renumbered section 420 and a new section 421 is added to read as follows:

S 421. RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT AND FOOD WAREHOUSE GRADING SYSTEM. 1. THE COMMISSIONER SHALL ESTABLISH A SYSTEM FOR GRADING INSPECTION RESULTS FOR RETAIL FOOD STORES, FOOD SERVICE ESTABLISHMENTS AND FOOD WAREHOUSES, AS DEFINED IN SECTION FOUR HUNDRED TWENTY OF THIS ARTICLE. SUCH SYSTEM SHALL USE AND POST LETTERS A, B OR C TO IDENTIFY AND REPRESENT SUCH GRADING AND CLASSIFICATION WITH ALL OTHER LOWER GRADES BEING DEEMED TO BE FAILING GRADES. IN ESTABLISHING SUCH SYSTEM OF GRADING, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE PROVISIONS OF TITLE EIGHT OF ARTICLE THIRTEEN OF THE PUBLIC HEALTH LAW AND THE PROVISIONS OF THE SANITARY CODE TO ESTABLISH A GRADING SYSTEM THAT REFLECTS THE SAFETY AND SANITATION OF THE PREMISES AND FOOD HANDLING PRACTICES TO ENSURE COMPLIANCE WITH STATE AND LOCAL LAWS.

2. SUCH RETAIL FOOD STORES, FOOD SERVICE ESTABLISHMENTS AND FOOD WAREHOUSES SHALL CONSPICUOUSLY POST NEAR THE ENTRANCE TO SUCH ESTABLISHMENT THE LETTER GRADE IDENTIFYING AND REPRESENTING THE RESULT OF SUCH ESTABLISHMENT'S MOST RECENTLY GRADED INSPECTION BY THE DEPARTMENT. SUCH POSTING SHALL BE DONE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER. IN ADDITION TO A LETTER GRADE, SUCH ESTABLISHMENT SHALL RECEIVE THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE MAY APPEAL SUCH SUBSEQUENT ASSIGNMENT OF A LETTER GRADE DESIGNATION TO THE COMMISSIONER FOR REVIEW WITHIN THIRTY DAYS OF SUCH ASSIGNMENT. WHILE ANY SUCH APPEAL IS PENDING, THE RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE SHALL POST THE LETTER GRADE THAT IS BEING APPEALED.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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3. THE SUGGESTED INTERVAL BETWEEN REGULARLY SCHEDULED INSPECTIONS OF RETAIL FOOD STORES, FOOD SERVICE ESTABLISHMENTS AND FOOD WAREHOUSES MAY BE AS FOLLOWS:

(A) FOR ESTABLISHMENTS WITH A GRADE OF "A", AT LEAST ONCE EVERY YEAR; AND

(B) FOR ESTABLISHMENTS WITH A GRADE OF "B", AT LEAST ONCE EVERY NINE MONTHS.

4. A RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE THAT REQUESTS A REINSPECTION FROM THE DEPARTMENT, SHALL PAY THE DEPARTMENT A FEE OF UP TO TWO HUNDRED FIFTY DOLLARS. PROVIDED HOWEVER THAT THE PROVISIONS OF THIS SUBDIVISION SHALL NOT NEGATE THE ABILITY OF ANY DEPARTMENT TO INSPECT A RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE ON THE BASIS OF A COMPLAINT FROM A MEMBER OF THE PUBLIC.

S 2. This act shall take effect two years after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.